

GRANTED.

s/Christopher A. Boyko
CHRISTOPHER A. BOYKO
U.S. District Court
Dated: 12/20/2019

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

| | | |
|--------------------------|---|-------------------------------------------|
| UNITED STATES OF AMERICA |) | CASE No. 1: 18-CR-759 |
| |) | |
| Plaintiff, |) | JUDGE Christopher A. Boyko |
| |) | |
| vs. |) | |
| |) | |
| KHALIL EWAIS, et al. |) | <u>DEFENDANT ABDELJAWAD EWAIS'</u> |
| |) | <u>MOTION FOR TRANSFER OF</u> |
| |) | <u>FIREARM TO THIRD PARTY</u> |
| Defendants. |) | |
| |) | |
| |) | |

Now comes Defendant Abdeljawad Ewais (hereinafter, Defendant), through counsel, and respectfully moves this Honorable Court to authorize the transfer of a firearm by the Federal Bureau of Investigation (FBI) to a third party as identified by Defendant.

When Defendant was arrested on Dec. 20, 2018, he turned over his firearm, a Glock 9mm, to the FBI, who have maintained possession of that weapon. Defendant was convicted upon sentencing on Oct. 22, 2019, and as a felon is ineligible to possess any firearm. A third party unrelated to Defendant has come forward to receive the firearm. That person is identified for purposes of this Motion as A.S.H., a resident of Fairview Park, Ohio. His full name, address, and contact information have been provided to the FBI through the U.S. Attorney's Office. The U.S. Attorney's Office has advised undersigned counsel that the FBI has determined that A.S.H. is not a prohibited person and is therefore eligible to receive the firearm. Moreover, A.S.H. has

been advised that once he takes possession of the firearm, he cannot ever return the firearm to Defendant, nor allow Defendant to direct or control the use of the firearm, as those actions would constitute aiding and abetting a criminal violation. A.S.H. understands and accepts those conditions.

This Motion is filed pursuant to *Henderson v. United States*, 135 S.Ct. 1780 (2015). In *Henderson*, the Supreme Court approved the transfer of a defendant's firearms to a friend "who agreed to purchase them for an unspecified price." *Henderson*, 135 S.Ct. at 1783. If the court is satisfied that a proposed disposition prevents a felon from exercising control over a weapon, then the felon-in-possession statute does not apply and the court has the equitable power to accommodate a felon's request for a transfer. *Henderson* represented a significant change in the law; previously, it was the government's position that a transfer of a firearm by a felon after conviction constituted constructive possession.

Defendant stands ready to submit any further information requested by the Court. Absent that need, granting this Motion will permit the FBI to transfer the firearm to A.S.H.

Wherefore, this Honorable Court is requested to grant this Motion and permit the transfer by the FBI as set forth herein.

Respectfully submitted:

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CERTIFICATE OF SERVICE

I hereby certify that on December 18, 2019, a copy of the foregoing *Defendant Abdeljawad Ewais' Motion for Transfer of Firearm to Third Party* was electronically filed. Notice of this filing will be sent to all registered parties by operation of the Court's electronic filing system and all parties may access this filing through the Court's system to the following:

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